



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 05-2377

Released: August 31, 2005

**WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUESTS FOR
WAIVER BY SYOSSET, NEW YORK, FIRE DISTRICT TO UTILIZE PART 22 AND
TELEVISION CHANNEL 19 BAND FREQUENCIES IN ITS PUBLIC SAFETY
COMMUNICATIONS SYSTEM**

Comment Date: September 21, 2005

Reply Date: October 3, 2005

The Syosset Fire District, New York (Syosset) has filed four applications for authorization to augment its existing public safety radio communications system, FCC File Nos. 0001845877, 0001973268, 0001973296, and 0002096719. Syosset's license to operate Station WPYJ816, Syosset, New York, was granted by waiver pursuant to Section 337(c) of the Communications Act of 1934, as amended (the Act),¹ on August 25, 2003. The station is licensed for eleven UHF frequencies. As set forth below, the instant applications seek authorization for additional frequencies and facilities so that Syosset can serve a number of neighboring fire departments and improve communications over a larger, shared service area.²

The first two pending applications request modification of the license for Station WPYJ816. On August 19, 2004, Syosset filed application FCC File No. 0001845877 to relocate two base station sites from Roslyn Harbor and East Meadow to Jericho and Syosset, respectively. The base station relocations would alter the service contours of Station WPYJ816 on frequencies allocated to paging services in Part 22 of the Commission's Rules. On December 16, 2004, Syosset filed application FCC File No. 0001973268, seeking to modify the license for Station WPYJ816 to increase the authorized power levels at all stations and all frequencies except 470.1375 MHz. Syosset also requested the addition of frequencies 479.0625 and 473.2000 MHz for simplex fireground operations and frequency 473.0250 MHz for wide-area dispatch operations. Syosset requests a waiver pursuant to Section 337(c) of the Act because the new frequencies are allocated for paging use under Part 22 of the Commission's Rules.

The third and fourth pending applications request frequencies in the Channel 19 television band and also are accompanied by waiver requests pursuant to Section 337(c) of the Act. On December 16, 2004, Syosset filed application FCC File No. 0001973296 for frequency pairs 500/503.6125 and 501/504.2375 MHz. These frequencies are allocated for public safety and other private land mobile radio in the Philadelphia metropolitan area, but not in the New York metropolitan area. Syosset intends to use the frequencies for mobile data use throughout Nassau County, New York. On March 23, 2004, Syosset

¹ 47 C.F.R. § 337(c).

² A description of Syosset's overall plan is included in its request for a construction extension for Station WPYJ816, FCC File No. 0001828172.

filed application FCC File No. 0002096719 for frequency 502.525 MHz, which Syosset proposed to use for on-site repeaters throughout Nassau County.

All four applications are accompanied by engineering studies to demonstrate that grants of Syosset's modifications and use of additional frequencies would not interfere with co-channel or adjacent channel licensees. On May 4, 2005, Syosset amended the applications with frequency coordinator analyses performed by the Forestry Conservation Communications Association (FCCA), a Commission-certified frequency coordinator in the Public Safety Pool. In addition, Syosset notes that the Nassau County Police Department (NCPD) was granted a license in 2002 by waiver to use several frequencies in the television Channel 19 band. Syosset asserts that its use of Channel 19 spectrum will not exceed the use already approved for NCPD.

Syosset requests waivers of our rules to grant its applications. Specifically, grants of Syosset's applications require waivers of Sections 22.7, 22.621, 90.303, 90.305, and 90.311 of the Commission's Rules.³ Further, Syosset requests waiver to use frequencies allocated for non-public safety use pursuant to Section 337(c) of the Act, which states that the Commission shall grant an application by an entity seeking to provide public safety services to the extent necessary to permit the use of unassigned frequencies, if the Commission makes five specific findings: (1) no other spectrum allocated for public safety use is immediately available; (2) there will be no harmful interference to other spectrum users entitled to protection; (3) public safety use of the frequencies is consistent with other public safety spectrum allocations in the geographic area in question; (4) the unassigned frequencies were allocated for their present use not less than two years prior to the grant of the application at issue; and (5) the grant of the application is consistent with the public interest. "Public safety services" are defined by 47 U.S.C. § 337(f) as services the sole or principal purpose of which is to protect the safety of life, health, or property, that are provided by the governmental entities or by non-governmental entities authorized by the governmental entity whose primary mission is the provision of such services, and that are not made commercially available to the public by the provider.

Interested parties may file comments on the applications and waiver requests on or before September 21, 2005. Parties interested in submitting reply comments must do so on or before October 3, 2005. All comments should reference the subject waiver request including the DA number of this Public Notice, and should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., TW-A325, Washington, D.C. 20554. This address for FCC locations should be used only for documents filed by United States Postal Service first-class mail, Express Mail, and Priority Mail. Hand-delivered or messenger-delivered documents for the Commission's Secretary are accepted only by the Commission's contractor, Natek, Inc., at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering 236 Massachusetts Avenue, N.E. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. See FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001).

³ 47 C.F.R. §§ 22.7 (eligibility for Part 22 spectrum), 22.621 (designating frequencies for paging control), 90.303 (designating 470-512 MHz channels for Part 90 use), 90.305 (limiting location of 470-512 MHz channels Part 90 stations), 90.311 (designating 470-512 MHz channels for Part 90 use).

The applications and waiver requests can be accessed electronically via the Commission's Universal Licensing System, <http://wireless.fcc.gov/uls>. The full text of the waiver requests, comments and reply comments will be available for inspection and duplication during regular business hours in the FCC Reference Information Center (RIC) of the Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. Copies also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554. Customers may contact BCPI through its web site, <http://www.bcpweb.com>, by email at fcc@bcpweb.com, by phone at (202) 488-5300 or (800) 378-3160, or by facsimile at (202) 488-5563. For further information regarding the public reference file for this waiver request, contact Maria Ringold, Chief, Wireless Branch, RIC, (202) 418-1355.

Unless otherwise provided, requests for waiver of the Commission's Rules are subject to treatment by the Commission as restricted proceedings for ex parte purposes under Section 1.1208 of the Commission's Rules, 47 C.F.R. § 1.1208. Because of the policy implications and potential impact of this proceeding on persons not parties to the waiver request, we believe it would be in the public interest to treat this case as a permit-but-disclose proceeding under the ex parte rules. See Sections 1.1200(a), 1.1206 of the Commission's Rules, 47 C.F.R. §§ 1.1200(a), 1.1206. Therefore, subsequent to the release of this Public Notice, ex parte presentations that are made with respect to the issues involved in the subject waiver request will be allowed but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b).

For further information, contact Mr. Thomas Eng of the Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau at (202) 418-0019, TTY (202) 418-7233, or via e-mail to Thomas.Eng@fcc.gov.

By the Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau.

- FCC -